

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION

Tom Colucci,	)	
	)	
Plaintiff,	)	C.A. No. 6:04-955-HMH
	)	
vs.	)	<b>OPINION &amp; ORDER</b>
	)	
The AGFA Corporation Severance Pay	)	
Plan,	)	
	)	
Defendant.	)	

This matter is before the court on remand from the United States Court of Appeals for the Fourth Circuit. On November 28, 2005, the Fourth Circuit held that the AGFA Corporation Severance Pay Plan (“Plan”), governed by the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001-1461, “did not abuse its discretion in construing ambiguous provisions” of the Plan in calculating Tom Colucci’s severance benefits. Colucci v. AGFA Corporation Severance Pay Plan, 431 F.2d 170, 178 (4th Cir. 2005). As such, the Fourth Circuit reversed the judgment of this court and remanded the case with instructions to enter judgment for the Plan. Id. at 180.

It is therefore

**ORDERED** that judgment is entered for the Plan.

**IT IS SO ORDERED.**

s/ Henry M. Herlong, Jr.  
United States District Judge

Greenville, South Carolina  
January 12, 2006